

Documents Detail Justice Department

By George Lardner Jr.
Washington Post Staff Writer

The Justice Department's handling of a multibillion-dollar bank fraud involving Iraq came under fresh attack yesterday with the disclosure of documents outlining a concerted effort by prosecutors to "thwart" congressional inquiries into the case, motivated in part by unspecified "national security concerns."

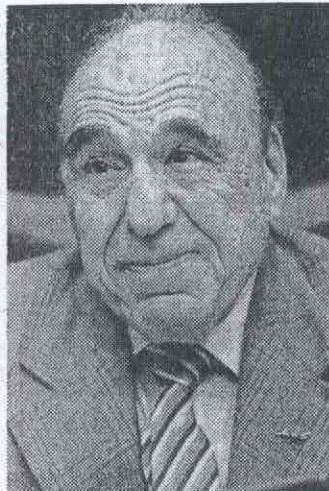
The records, made public by House Banking Committee Chairman Henry B. Gonzalez (D-Tex.), deal with the Justice Department's attempt to head off a probe that Gonzalez started in the fall of 1990.

"The Justice Department worked systematically to prevent any meaningful investigation of the BNL [Banca Nazionale del Lavoro] scandal," Gonzalez charged.

The case involved more than \$4 billion in illegal loans to Iraq by BNL's Atlanta branch between 1985 and 1989, a period when the Bush and Reagan administrations went to considerable lengths to support Baghdad in its war with Iran.

The government's investigation was triggered by an FBI raid on BNL's Atlanta offices in August 1989, but did not result in an indictment until 18 months later, at the end of the Persian Gulf War. Three BNL-Atlanta officials were accused of conspiring with Iraqi officials and other confederates in what amounted to a rogue operation to defraud the government-owned bank in Rome and several U.S. agencies. During the inquiry, Italian officials lobbied vigorously to prevent the prosecution of higher-ups at BNL-Rome.

The records released yesterday dealt with efforts here and in Atlanta in late September 1990 to frustrate Gonzalez's investigation. One memo, from W. Lee Rawls, head of the Office of Legislative



REP. HENRY B. GONZALEZ
... refused Thornburgh's call

Affairs, to then-Attorney General Dick Thornburgh, recited unsuccessful attempts by lower-ranking officials to dissuade Gonzalez's committee staff, in part by telling them that this was "a sensitive case with national security concerns."

Rawls concluded: "Our best attempt to thwart any further investigation by the House Banking Committee into this case is to have you contact Chairman Gonzalez directly."

Gonzalez refused to discuss the case with Thornburgh. A longtime critic of lax regulation of the U.S. operations of foreign bank affiliates, Gonzalez had become interested in the BNL case after reading a small item about the bank in the Wall Street Journal. He was planning to convene an October hearing.

When Gonzalez refused to take Thornburgh's call, the attorney general wrote a Sept. 26, 1990, letter expressing his "profound disappointment" that Gonzalez had ignored the department's objections and asserting that "this is a sensitive case with national security con-

cerns." Thornburgh did not elaborate on those concerns.

Another memo, dated Sept. 21, 1990, referred to plans by the prosecutor responsible for the case in Atlanta to discourage BNL witnesses not to cooperate with Gonzalez's committee. Written by Peter Clark, a Justice Department attorney helping in the case, the memo explained that the prosecutor, Gale McKenzie, "wanted to warn the witnesses not to speak to the staffers."

Alarmed, Clark said McKenzie should be warned against doing this and told that "if we have a valid reason to ask Congress to refrain from acting in a particular investigation, we tell the staff directly and never try to block their investigation by chilling witnesses. If she [McKenzie] talks to those witnesses, the congressional lead will be too hot for any but robots to handle."

Clark ended the memo lamenting, "I thought the USAO [U.S. attorney's office] was under control now that Joe Whitley is in place."

The memo does not state to whom it was addressed, but the content suggests that it was meant for Laurence A. Urgenson, then chief of the criminal division's fraud section. In any case, Clark's warning apparently did not get to Atlanta in time, if at all.

According to Dennis Kane, Gonzalez's chief investigator, "several witnesses would not talk to us because their attorneys said the U.S. attorney [McKenzie] told them not to." McKenzie could not be reached for comment.

Gonzalez said yesterday that the Sept. 21 memo and another written by Clark on Feb. 15, 1991, indicate that Joe D. Whitley, the U.S. attorney in Atlanta, "appears to have been involved in the management of the BNL case long after he claimed to have recused himself."

Whitley yesterday denied taking any actions in the BNL case and said he was never asked to intervene as the Clark memos suggested. He said he believed Clark's

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invocation of his name in the two memos was "a mistake."

Once No. 3 man at the Justice Department, Whitley was named U.S. attorney by Thornburgh on June 1, 1990. He immediately disqualified himself from the BNL case because of his representation of Matrix Churchill, an Iraqi front company that did business with BNL-Atlanta and that was under investigation for possible violations of federal bribery and export laws.

Whitley's name also came up in a Feb. 15, 1991, memo from Clark to Urgenson as the U.S. attorney's office was typing up what would turn out to be a massive 347-count indictment espousing the "rogue

operation" theory and holding BNL-Atlanta manager Christopher P. Drogoul as the highest-ranking bank official responsible.

The memo, reflecting Clark's concern about the number of charges in the indictment, said: "There is adamant refusal to cut counts to the 100 mark—and perhaps this will have to be redressed via Joe Whitley."

Asked if any Washington officials ever called him about the BNL case, Whitley replied: "If they did, I told them I was recused and I was not able to have a conversation on the subject."

Whitley left the Justice Department as acting associate attorney

general in the summer of 1989 and became partner in an Atlanta law firm that Matrix Churchill hired that October. According to an Oct. 31, 1989, letter from the firm to Matrix Churchill's British counsel, first reported by the Atlanta Constitution, Whitley was seen as valuable because of his links to U.S. and Italian prosecutors. Whitley declined to comment, saying the letter appeared to be a privileged communication.

A Justice Department spokesman said last night that, far from trying to thwart Gonzalez's inquiry, the department supplied him with thousands of documents before restricting his access last spring in a dispute over disclosing classified information.